

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JOEL I. SHER,
Chapter 11 Trustee for TMST, Inc.
et al.

Plaintiffs

v.

COUNTRYWIDE HOME LOANS INC.,
et al.

Defendants

Civil Case No. L-11-3192

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ORDER

Presently pending is the Motion filed by Defendants, Bank of America Corporation and Countrywide Home Loans, Inc., to withdraw the reference in this adversary proceeding. Docket No. 1.

The claims brought by the Trustee are state law breach-of-contract claims based on pre-petition conduct. The parties concur that Counts 3 and 4 of the Amended Complaint are statutorily non-core. Plaintiffs contend, however, that Counts 1 and 2 are core because they constitute "counterclaims by the estate against persons filing claims against the estate" within the intendment of 28 U.S.C. § 157(b)(2)(C).

Even assuming that Counts 1 and 2 are core matters, the Bankruptcy Court would lack authority to enter a final judgment on these claims because resolution of Countrywide's proof of claim would not "necessarily result in the resolution of [the debtor's] counterclaim." Stern v. Marshall, 131 S. Ct. 2594, 2618 (2011). Having considered the factors applicable in assessing the propriety and timing of withdrawal, see In re Millenium Studios, Inc., 286 B.R. 300, 303 (D. Md. 2002), the Court determines that immediate withdrawal is appropriate so that the Court may consider the pending motions to dismiss and for change of venue.

Accordingly, the Motion to Withdraw Reference (Docket No. 1) is hereby GRANTED.

SO ORDERED this 3rd day of July, 2012

/s/

Benson Everett Legg
United States District Judge